



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



384654

REPLY TO THE ATTENTION OF  
**SR-6J**

May 12, 2004

*Via Facsimile and Federal Express*

Ms. Rebecca A. Humphries, Director Designee  
State of Michigan  
Department of Natural Resources  
Stevens T. Mason Building  
P.O. Box 30028  
Lansing, Michigan 48909-7528

Re: Denial of Access to Plainwell Impoundment Area for Treatability Study  
Allied Paper/Portage Creek/Kalamazoo River Superfund Site

Dear Ms. Humphries:

I received your letter today in response to the request from the United States Environmental Protection Agency (U.S. EPA or Agency) for access to conduct a riverbank treatability study (Study) at the Plainwell impoundment, which is part of the Allied Paper/Portage Creek/Kalamazoo River Superfund Site. U.S. EPA's ability to complete this important Study, which includes pre-construction sampling in early May, construction in July, and habitat restoration in October, remains in serious jeopardy unless access is immediately granted. The purpose of the Study is to evaluate the implementability, cost, and effectiveness of two riverbank stabilization methods on a small (800 feet) section of riverbank within the Plainwell impoundment. Among other things, the Study will enable U.S. EPA to evaluate, pursuant to Sections 300.430(e)(7)(i)-(iii) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. §§ 300.430(e)(7)(i)-(iii), whether bank stabilization measures can be implemented in a protective, effective and cost-efficient manner using wet-excavation engineering techniques. As noted in U.S. EPA's letter of May 5, 2004, results of this Study will help U.S. EPA develop one of the alternatives that will be considered by the Agency for this stretch of the river in the Feasibility Study (40 C.F.R. § 300.430(e)(1)).

U.S. EPA requested a response by May 12, 2004. Although any delays threaten our ability to conduct the study this year, U.S. EPA will wait until May 14, 2004 for your decision. The Agency expects to receive a written response by that date, as your letter

indicates. U.S. EPA will assume that the Michigan Department of Natural Resources (MDNR) does not intend to provide access as requested if no response is received by May 14, 2004. Unless the Agency receives notice that MDNR will grant access, U.S. EPA may be compelled to seek the necessary administrative or, as appropriate, judicial order against MDNR. If access is provided immediately, U.S. EPA will work with MDNR to address any implementation issues raised by MDNR as the work proceeds.

The Agency hopes MDNR will agree to provide access to conduct this necessary study. If you or your staff need to contact us, I can be reached at (312) 353-9773 and Shari Kolak, the Remedial Project Manager for the Site can be reached at (312) 886-6151. Thank you for your cooperation regarding this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard C. Karl", with a long horizontal flourish extending to the right.

for Richard C. Karl, Acting Director  
Superfund Division

cc: Paul Bucholtz (MDEQ)  
Suzanne D. Sonneborn (MI AG)  
Sharon Hanshue (MDNR)

bcc: Wendy Carney, Superfund  
Larry Schmitt, Superfund  
Shari Kolak, Superfund  
Eileen Furey, ORC  
Jacqueline Hejmanowski, ORC  
Renita Ford, DOJ